REMARKS

This amendment is in response to the Office Action (Paper No. 10212005) mailed on November 3, 2005. Reexamination and reconsideration is respectfully requested. Upon entry of this amendment, claims 1-6, 14-24, and 26-41 will be pending.

Clarification of the Status of Claims

Regarding Claim 17

The status of claim 17 is not clearly stated in the present Office Action. The claim 17 is noted as allowable in the paragraph 11 of the Office Action, but is marked as rejected in the Office Action Summary (Page 1 of Paper No. 10212005). The Examiner hasn't provided reasoning for the rejection of the claim 17. Clarification under 37 C.F.R. § 1.104 is respectfully requested whether the claim 17 is rejected.

Regarding Claims 28, 29, 34, and 35

Claims 28, 29, 34, and 35 are marked as rejected in the Office Action Summary (Page 1 of Paper No. 10212005), but the Examiner hasn't provided reasoning for the rejections of the claims. It is not clear whether the claims 28, 29, 34, and 35 are rejected. Clarification under 37 C.F.R. § 1.104 is respectfully requested whether the claims 28, 29, 34, and 35 are rejected.

Status of Claims

Claims 16, 18, 19, 21, 39, and 40 are rejected under 35 U.S.C. 102(e) as being anticipated

by Litchman et al. (US Patent No. 5,787,246).

Claims 1, 2, 14, 38, and 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bennett et al. (US Patent No. 5,715,456) in view of Meyers et al. (US Patent No. 6,170,055).

Claims 22, 23, 26, 27, 30, and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Litchman et al. in view of Bennett et al. Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over Litchman et al. in view of Bennett et al. and further in view of Meyers et al.

Claims 3, 6, 15, 20, 31-33, and 36 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 4-6 are allowable. Applicant appreciates the Examiner's indication of allowability.

Rejection of Claim 1 under 35 U.S.C. 103(a)

Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bennett et al. (US Patent No. 5,715,456) in view of Meyers et al. (US Patent No. 6,170,055). Applicant traverses the Examiner's rejection as follows.

In support of the rejection, the Examiner wrote:

"Bennett et al. disclose a recording medium 10 for fixing a conflict of a computer system comprising a boot image (i.e. OS loader) loaded in a main memory installed in the computer system when the computer system is booted, for managing the operation of the computer system (see col. 6, lines 60-64);

a program image (i.e. config.sys) consisting of an operating system and application programs to be installed in an auxiliary memory unit of the computer system, and list of the operating system and application programs (see col. 7, lines 7-51). . .

However, Meyers et al. disclose a conflict repair control program having a code means (a) loaded in the main memory of the computer system for checking whether the auxiliary memory unit is normal (see col. 13, lines 1-12), and a code means (b) for repairing damaged files in the auxiliary memory unit using the program image when abnormality exists in the auxiliary memory unit (see col. 13, lines 1-35)."

The Examiner stated Bennett et al. '456 discloses *a recording medium 10*, but Applicant is unable to identify the recording medium 10 in Bennett et al. '456, even after a thorough reading of Bennett et al. '456. Based on the Examiner's first argument, stating that col. 6, lines 60-64 of Bennett et al. '456 teaches the recording medium, and the reasoning supporting the rejection of claim 2, Applicant will interpret that the Examiner noted the CD-ROM 109B of Bennett et al. '456 as the recording medium. Clarification under 37 C.F.R. § 1.104(c)(2) is respectfully requested to point out what element in Bennett et al. '456 the Examiner interprets as a recording medium.

Applicant submits that the Examiner's reasoning stating Bennett et al. '456 discloses "a program image" of claim 1 is in error. Claim 1 reads "a program image consisting of an operating system and application programs to be installed in an auxiliary memory unit of the computer system, and *a list of the operating system and application programs.*" Bennett et al. '456, however, does not

disclose that the CD-ROM 109B includes "a list of the operating system and application programs" as set forth in claim 1. The necessity of the list of the operating system and application programs is described in claim 3, which recites "a code unit for displaying the list included in the program image and newly installing only programs selected by a user in the auxiliary memory unit." Therefore, the combined references do not teach or suggested all the claim limitations.

The Examiner asserted that Meyers et al. '055 discloses "a conflict repair control program" of claim 1, and the combined teaching of Bennett et al. '456 and Meyers et al. '055 teaches "a recording medium comprising a conflict repair control program." The Examiner relies on Bennett et al. '456 for the teaching of a recording medium comprising a boot image and a program image, and relies on Meyers et al. 055 for the teaching of a recording medium comprising a conflict repair control program. Applicant, however, submits that the combined teaching of Bennett et al. '456 and Meyers et al. '055 does not provide suggestion or motivation to modify or combine the reference teachings. Claim 1 reads in part "a conflict repair control program having . . . a code means (b) for repairing damaged files in the auxiliary memory unit using *the program image*. . ."

Col. 13, lines 1-12 of Meyers et al. '055 discloses a recovery application that may detect and repair damaged files, but does not teach how the recovery application of Meyers et al. '055 uses the program image that is included in a recording medium disclosed by Bennett et al. '456. Therefore, even when Meyers et al. '055 and Bennett et al. '456 are combined, the combined references neither teach nor suggest "a code means (b) for repairing damaged files in the auxiliary memory unit using the program image." The mere fact that references can be combined or modified does not render the

resultant combination obvious unless the prior art also suggests the desirability of the combination. In re Mills, 916 F.2d 680, 16 USPQ2d 1430 (Fed. Cir. 1990). Nowhere do the combined references teach that the recording medium disclosed by Bennett et al. '456 and the recovery application of Meyers et al. '055 can be combined in a manner as set forth in claim 1.

Therefore, there is no suggestion or motivation to combine reference teachings, and also as discussed above, the combined references do not teach or suggest all the claim limitations. Withdrawal of the rejection is respectfully requested.

Rejection of Claim 14 under 35 U.S.C. 103(a)

Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bennett et al. (US Patent No. 5,715,456) in view of Meyers et al. (US Patent No. 6,170,055). Applicant traverses the Examiner's rejection as follows.

In support of the rejection, the Examiner wrote in part:

"Bennett et al. disclose the method of fixing the boot failure in the computer system . . .

reinstalling an OS to the hard drive (see col. 7, line 64 through col. 8, line 5);

setting the CD-ROM device as the master device and booting the computer again when new booting when the hard drive is set as the master fails (see col. 8, lines 19-35);

backing up data files stored in the auxiliary memory and formatting the auxiliary memory (see col. 7, lines 7-51);

installing an operating system among a program image recorded in the CD-ROM, in the

auxiliary memory (see col. 7, lines 1-51);

setting the hard drive as a master device and newly booting the computer system (see col. 8, lines 7-35);

reinstalling application programs in the auxiliary memory using the program image recorded in the CD-ROM (see col. 7, lines 24-51). . ."

In order to establish a *prima facie* case of obviousness, the combined prior art references must teach or suggest all the claim limitations.[1] Applicant submits that the Examiner failed to establish a *prima facie* case of obviousness. Claim 14 reads in part "(b) reinstalling an operating system . . . (c) reinstalling application programs," but the cited references do not disclose any reinstalling steps.

Bennett et al. '456 discloses a method for booting a computer system without pre-installing an operating system.[2] In this method, Bennett et al. '456 discloses a first stage INSTALL[3] and a second stage INSTALL[4]. The first stage INSTALL describes a method of booting a computer system with a CD-ROM device, and the second stage INSTALL describes installing an operating system to local media. Even when Bennett et al. '456 is combined with Meyers et al. '055, it cannot be interpreted that the combined references suggest reinstalling steps.

---

1 MPEP § 2143.

2 Title of Bennett et al. '456.

3 Bennett et al. '456, FIG. 3, col. 6, lines 42-43, and col. 7, line 24.

4 Bennett et al. '456, FIG. 4, and col. 7, line 64.

Specifically, claim 14 reads "(b.1) setting the CD-ROM device as a master device and booting the computer system again when a new booting when the auxiliary memory is set as the master device fails." First, it should be noted that this step is a substep of "reinstalling an operating system in the auxiliary memory." The combined references do not disclose any process for setting the CD-ROM device as a master device in the reinstalling process. Second, claim 14 reads "setting the CD-ROM device as a master device . . . ***when a new booting . . . fails***." Bennett et al. '456 discloses that booting a computer system with a CD-ROM is during the first stage INSTALL applications, where an operating system is not installed in the disk.

The Examiner also asserted that Bennett et al. '456 discloses "backing up data files stored in the auxiliary memory and formatting the auxiliary memory" of claim 14. Applicant submits that the Examiner's assertion is in error.

Bennett et al. '456 discloses "[t]he first stage install may *copy certain files to the local media* 113B . . .",[5] but this process cannot be interpreted as the step of "backing up data files stored in the auxiliary memory" as set forth in claim 14, because Bennett et al. '456 teaches to copy certain files ***to the local media*** 113B after formatting and configuring the local media 113B.

The step of "formatting the auxiliary memory" of the claim 14 is a substep of the step of "reinstalling an operating system in the auxiliary memory". Bennett et al. '456 teaches "[i]f the disk 113B is not formatted and configured, the first stage INSTALL formats and configures the disk . .

---

[5] Bennett et al. '456, col. 7, lines 32-33.

."[6] According to Bennett et al. '456, the disk is formatted when the disk is not formatted, and the formatting process of Bennett et al. '456 is performed before an operating system is installed.

Claim 14 reads "backing up data files stored in the auxiliary memory ***and*** formatting the auxiliary memory." If the Examiner's reasoning is correct, which is not an admission by Applicant, the files of Bennett et al. '456 don't have to be copied to the local media, because the files will be lost when the local media is formatted. The Examiner is respectfully requested to clearly point out where Bennett et al. '456 teaches the step of "backing up data files stored in the auxiliary memory ***and*** formatting the auxiliary memory" as set forth in claim 14.

Applicant submits that the combined references do not teach or suggested all the claim limitations. Withdrawal of the rejection is respectfully requested.

Rejection of Claim 16 under 35 U.S.C. 102(e)

Claim 16 is rejected under 35 U.S.C. 102(e) as being anticipated by Litchman et al. (US Patent No. 5,787,246). Applicant traverses the Examiner's rejection as follows.

In support of the rejection, the Examiner wrote in part:

"Litchman et al. disclose . . .

checking for a conflict inside said computer by non-removable media inside said computer when said computer has said operating system fully loaded and said user friendly graphical user

---

[6] Bennett et al. '456, col. 7, lines 26-28.

interface is present (see col. 15, lines 32-44);

repairing any conflicts by non-removable media inside said computer upon detection of said conflicts in said checking step (see col. 24, lines 18-61);

returning to a user friendly graphical user interface for said operating system if all conflicts have been repaired (see col. 24, lines 18-61)."

Applicant would like to briefly summarize the teaching of Litchman et al. '246. Litchman et al. '246 discloses a system for configuring devices of a computer system without user intervention.[7] FIG. 2 of Litchman et al. '246 shows the configuration logic. The purpose of the configuration logic is "to insure that the devices 20 have conflict-free access to the resources 14."[8] Litchman et al. '246 discloses two separate processes of the device configuration. Steps 42 through 64 in FIGS. 4A and 4B of Litchman et al. '246 shows a first configuration process for system-level devices (boot-level devices),[9] which is performed before boot processes. Steps 70 through 92 in FIGS. 4B and 4C shows a second configuration process for nonboot-level devices,[10] which is performed after the boot processes but before the operating system is fully loaded.

The Examiner asserted that col. 15, lines 32-44 of Litchman et al. '246 discloses the step of

---

7 Litchman et al. '246, Abstract.

8 Litchman et al. '246, col. 14, lines 60-62.

9 Litchman et al. '246, col. 17, lines 14-15.

10 Litchman et al. '246, col. 20, lines 25-27.

"checking the conflict inside said computer . . ." of claim 16. Applicant, however, submits that the Examiner's assertion is in error. Col. 15, lines 32-44 describes a process of analyzing device information, which is performed by an arbitration module 34 to enable the conflict-free allocation of a resource element to the selected devices 20.[11] Before the analyzing process, device driver is identified, device information is collected, and the selected device is detected.[12] These processes are included in the configuration logic shown in FIG. 2 of Litchman et al. '246. The configuration logic 30 configures the devices, and the arbitration module 34 is an element of the configuration logic 30. This configuration process is performed for both of the system-level devices[13] and nonboot-level devices[14].

Claim 16 reads in part "checking for a conflict inside said computer by non-removable media inside said computer when said computer has *said operating system fully loaded* and *said user friendly graphical user interface is present*". Therefore, the issue is whether Litchman et al. '246 discloses that the configuration process is performed when the operating system is fully loaded and graphical user interface is present. Regarding this issue, Litchman et al. '246 discloses "the configuration operations for the monboot-level devices on the integrated bus 15 are supported by the collection of device information that occurred *prior to the BOOT process* of step 68."[15] Therefore,

---

[11] Litchman et al. '246, col. 15, lines 28-38.

[12] Litchman et al. '246, col. 15, lines 14-24.

[13] Litchman et al. '246, step 42 of FIG. 4A.

[14] Litchman et al. '246, step 70 of FIG. 4B.

[15] Litchman et al. '246, col. 20, lines 18-21.

Litchman et al. '246 specifically discloses that the configuration operation begins before boot process, and therefore before loading the operating system. Furthermore, nowhere does Litchman et al. '246 discloses that the device configuration process is performed when the operating system is fully loaded and graphical user interface is present.

The Examiner also asserted that col. 24, lines 18-61 of Litchman et al. '246 discloses the steps of "repairing any conflicts by non-removable media inside said computer upon detection of said conflicts in said checking step; and returning to a user friendly graphical user interface for said operating system if all conflicts have been repaired" of claim 16. Applicant, however, submits that the Examiner's assertion is also in error. Carefully reading col. 24, lines 18-61 of Litchman et al. '246, it is found that these paragraphs explain the flow chart diagram of FIG. 5. FIG. 5 of Litchman et al. '246 illustrates steps for *obtaining a compatible device driver.*[16] The process described in FIG. 5 is completely irrelevant to the steps of "repairing any conflicts . . ." and "returning to a user friendly graphical user interface . . ." as set forth in claim 16.

Claim 16 reads "repairing any conflicts by non-removable media inside said computer upon detection of *said conflicts in said checking step.*" As discussed above, Litchman et al. '246 does not disclose the step of "checking for a conflict . . ." of claim 16. Therefore, Litchman et al. '246 does not disclose the step of "repairing any conflicts" as set forth in claim 16.

---

[16] Litchman et al. '246, col. 23, lines 55-57.

Moreover, col. 24, lines 18-61 of Litchman et al. '246 does not disclose the step of "returning to a user friendly graphical user interface for said operating system if all conflicts have been repaired" as set forth in claim 16. The Examiner is respectfully requested to point out where Litchman et al. '246 discloses the step of "returning to a user friendly graphical user interface for said operating system if all conflicts have been repaired."

Therefore, the cited prior art reference does not teach every claimed element. Withdrawal of the rejection is respectfully requested.

Rejection of Claim 27 under 35 U.S.C. 103(a)

Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over Litchman et al. in view of Bennett et al. Applicant traverses the Examiner's rejection for the following reasons.

In support of the rejection, the Examiner wrote:

"Litchman discloses . . .

checking the conflict inside the computer by non-removable media inside the computer when the computer has the operating system fully loaded and the user friendly GUI is present (see col. 15, lines 32-44). . . .

Col. 15, lines 32-44 of Litchman et al. '246 describes a process of analyzing device information, which is performed by an arbitration module 34 to enable the conflict-free allocation

of a resource element to the selected devices 20.[17] As discussed regarding claim 16, Litchman et al. '246 discloses "the configuration operations for the monboot-level devices on the integrated bus 15 are supported by the collection of device information that occurred *prior to the BOOT process* of step 68."[18] Therefore, the Examiner's assertion stating that Litchman et al. '246 discloses "a non-removable conflict control unit" as set forth in claim 27 is in error. Withdrawal of the rejection is respectfully requested.

Rejection of Claim 18 under 35 U.S.C. 102(e)

Claim 18 is rejected under 35 U.S.C. 102(e) as being anticipated by Litchman et al. (US Patent No. 5,787,246). Applicant traverses the Examiner's rejection as follows.

In support of the rejection, the Examiner wrote:

"Litchman et al. discloses the conflicts selected from the group consisting of system registry and hardware information (see col. 25, lines 1-10)."

Applicant submits that the Examiner's interpretation of the col. 25, lines 1-10 of Litchman et al. '246 is in error. Col. 25, lines 1-10 does not describe type of conflict, but describes what elements are generally included in the operating system by stating "the operating system 10

---

[17] Litchman et al. '246, col. 15, lines 28-38.

[18] Litchman et al. '246, col. 20, lines 18-21.

comprises numerous software programs or modules, including . . ."[19] The software programs or modules disclosed in Litchman et al. '246 cannot be interpreted as "a conflict" of claim 18.

Therefore, the cited prior art reference does not teach every claimed element. Withdrawal of the rejection is respectfully requested.

Rejection of Claim 21 under 35 U.S.C. 102(e)

Claim 21 is rejected under 35 U.S.C. 102(e) as being anticipated by Litchman et al. (US Patent No. 5,787,246). Applicant traverses the Examiner's rejection as follows.

In the support of the rejection, the Examiner wrote:

"Litchman et al. discloses the periodically update the configuration of the system (see col. 16, line 56 through col. 17, line 6)."

Applicant submits that the Examiner's assertion is in error. Col. 16, line 56 through col. 17, line 6 of Litchman et al. '246 describes a pre-boot configuration process that is performed for system-level devices before boot processes, while "the checking up" of claim 21 is performed "when said computer had said operating system fully loaded."[20] Also, the process described in col. 16, line 56 through col. 17, line 6 of Litchman et al. '246 is not automatically periodically run, because the

---

[19] Litchman et al. '246, col. 24 line 67 - col. 25, line 10.

[20] Claim 16.

configuration process starts only when the power of the computer is turned on.[21]

Moreover, because Litchman et al. '246 does not disclose the checking step as discussed regarding claim 16, the "checking step being run automatically periodically" is not disclosed in Litchman et al. '246. Therefore, there is no anticipation. Withdrawal of the rejection is respectfully requested.

Rejection of Claim 22 under 35 U.S.C. 103(a)

Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Litchman et al. in view of Bennett et al. Applicant traverses the Examiner's rejection as follows.

In support of the rejection, the Examiner wrote in part:

"Bennett et al. disclose the step of booting, loading an operating system, and providing a GUI being performed by a CD-ROM disk only if the hard drive is fails to boot (see col. 6, line 60 through col. 7, line 5) . . ."

Claim 22 reads in part "only if said non-removable media inside said computer fails to boot, . . ." Bennett et al. '456 discloses a booting process with a CD-ROM, but does not disclose a booting process that is performed only if the non-removable media inside said computer fails to boot. Therefore, the combined references do not teach or suggested all the claim limitations. Withdrawal of the rejection is respectfully requested.

---

[21] Litchman et al. '246, FIG. 4A, step 41.

Rejection of Claim 23 under 35 U.S.C. 103(a)

Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Litchman et al. in view of Bennett et al. Applicant traverses the Examiner's rejection as follows.

As discussed regarding claim 14, Bennett et al. '456 does not disclose the backing up process, and the Examiner's reasoning based on col. 7, lines 7-65 of Bennett et al. '456 is in error. Withdrawal of the rejection is respectfully requested.

Rejection of Claim 24 under 35 U.S.C. 103(a)

Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over Litchman et al. in view of Bennett et al. and further in view of Meyers et al.

Applicant traverses the Examiner's rejection with the same rationale as discussed regarding claims 16, 22, and 23. Withdrawal of the rejection is respectfully requested.

Rejection of Claims 26 and 37 under 35 U.S.C. 103(a)

Claims 26 and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Litchman et al. in view of Bennett et al. Applicant traverses the Examiner's rejection with the same rationale discussed regarding claim 16. Withdrawal of the rejection is respectfully requested.

Rejection of Claim 39 under 35 U.S.C. 102(e)

Claim 39 is rejected under 35 U.S.C. 102(e) as being anticipated by Litchman et al. (US Patent No. 5,787,246). Applicant traverses the Examiner's rejection as follows.

In the support of the rejection, the Examiner wrote:

"Litchman et al. discloses the checking and repairing steps occurring when the computer is at desktop (see col. 16, line 56 through col. 17, line 14)."

Claim 39 reads in part "the returning step not being a booting step." Applicant submits that the Examiner failed to provide reasoning for the feature stating "the returning step not being a booting step" as set forth in claim 39. Clarification is requested. Applicant submits that Litchman et al. '246 does not disclose the returning step, as discussed regarding claim 16. Withdrawal of the rejection is respectfully requested.

Rejection of Claim 40 under 35 U.S.C. 102(e)

Claim 40 is rejected under 35 U.S.C. 102(e) as being anticipated by Litchman et al. (US Patent No. 5,787,246). Applicant traverses the Examiner's rejection as follows.

In the support of the rejection, the Examiner wrote:

"Litchman et al. discloses the conflicts not preventing the computer from booting (see col. 16, lines 56-65)."

Col. 16, lines 56-65 of Litchman et al. '246 discloses a pre-boot configuration process performed for system-level devices before boot processes, and there is no description whether the conflict does not prevent the computer from booting. The Examiner is respectfully requested to clearly point out where Litchman et al. '246 discloses the feature of "the conflicts not preventing the

computer from booting."

There is no anticipation in the cited reference. Withdrawal of the rejection is respectfully requested.

Rejection of Claim 41 under 35 U.S.C. 103(a)

Claim 41 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bennett et al. (US Patent No. 5,715,456) in view of Meyers et al. (US Patent No. 6,170,055). Applicant traverses the Examiner's rejection as follows.

In support of the rejection, the Examiner wrote:

"Meyers et al. disclose the damaged file not preventing the computer from booting (see col. 13, lines 1-10)."

Claim 41 says "said damaged files not preventing said computer system from booting". Applicant submits that Meyers et al. '055 does not disclose what the damaged files can do. Col. 13, lines 1-10 of Meyers et al. '055 discloses what the recovery application can do. The recovery application is not a damaged file. Therefore, the combined references do not teach or suggested all the claim limitations. Withdrawal of the rejection is respectfully requested.

Rejection of Claims 2 and 38 under 35 U.S.C. 103(a)

Claims 2 and 38 depend from claim 1, and Applicant traverses the rejection of the claim 1. Therefore, Applicant believes claims 2 and 38 are patentable. Withdrawal of the rejection is

respectfully requested.

Rejection of Claim 19 under 35 U.S.C. 103(a)

Claim 19 depends from claim 16, and Applicant traverses the rejection of the claim 16. Therefore, Applicant believes claim 19 is patentable. Withdrawal of the rejection is respectfully requested.

Rejection of Claim 30 under 35 U.S.C. 103(a)

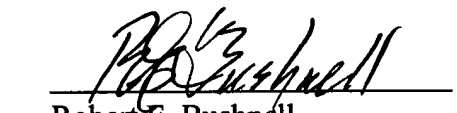
Claim 30 depends from claim 27, and Applicant traverses the rejection of the claim 27. Therefore, Applicant believes claim 30 is patentable. Withdrawal of the rejection is respectfully requested.

Conclusion

In view of the above, all claims submitted are allowable and this application is believed to be in condition to be passed to issue. Reconsideration of the rejections is requested. Should any questions remain unresolved, the Examiner is requested to telephone Applicant's attorney.

A petition for a one month extension of time accompanies this response. The Commissioner is authorized to charge Deposit Account No. 02-4943 of Applicant's undersigned attorney in the amount of $120.00. Should the petition become lost, the Commissioner is requested to treat this paragraph as a petition for an extension of time.

Respectfully submitted,



Robert E. Bushnell,
Attorney for the Applicant
Registration No.: 27,774

1522 "K" Street N.W.
Suite 300
Washington, D.C. 20005
(202) 408-9040

Folio: P55504
Date: 3/2/06
I.D.: REB/YJK